

### **REMARKS/ARGUMENTS**

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-12 and 21-23 are presently active. Claims 13-20 were withdrawn from consideration. Claims 2 and 9 have been cancelled without prejudice. Claims 1, 8, and 21 have been presently amended.

In the outstanding Office Action, Claims 1-12 and 21-23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Pomarede et al (US 2002/0098627).

Firstly, Applicants acknowledge with appreciation the courtesy of Examiner Ho to interview this case on December 5, 2005 during which time the present amendments were discussed and agreed to as defining over Pomarede et al.

As discussed during the interview, Pomarede et al do not disclose an insulating film including *metal-N bonds distributed throughout the thickness of the insulating film* in an amount of 1 atomic% or more. Thus, given the understanding reached during the interview that this amendment would be "sufficient to overcome the reference of record," it is respectfully submitted that independent Claims 1, 8 and 21 and the claims dependent therefrom patentably define over the cited references in the Office Action.

Finally, this amendment is submitted in accordance with 37 C.F.R. §1.116 which after final rejection permits entering of amendments canceling claims, complying with any requirement of form expressly set forth in a previous Office Action, presenting rejected claims in better form for consideration on appeal, or presenting amendments touching on the merits upon a showing of good and sufficient reasons why the amendment is necessary and was not presented earlier. The present amendment submits those amendments discussed during the interview as being sufficient to overcome Pomarede et al, thereby placing these claims in a condition for allowance. No new matter has been added, and this amendment does not raise

Application No. 10/772,280  
Reply to Office Action of October 24, 2005

new issues requiring further consideration and/or search. It is therefore respectfully requested that the present amendment be entered under 37 C.F.R. §1.116.

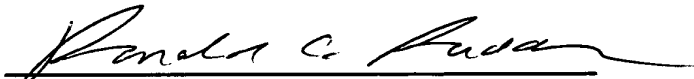
Consequently, in view of the present amendment and in light of the above discussions, the outstanding grounds for rejection are believed to have been overcome. The application as amended herewith is believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 08/03)  
GJM:RAR:clh

  
Eckhard H. Kuesters  
Attorney of Record  
Registration No. 28,870  
Ronald A. Rudder, Ph.D.  
Registration No. 45,618

I:\ATTY\RAR\AMENDMENTS\248's\248684US\AMFNL.DOC